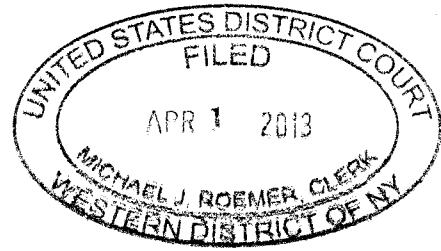


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



-PS-O-

JUNIOR LORENZO CEPEDA,

Plaintiff,

-v-

12-CV-0408F
ORDER

L. URBAN, et al., ,

Defendants.

In an Order entered February 6, 2013, the New York State Attorney General's Office was asked, pursuant to Valentin v. Dinkins, 121 F.3d 72 (2d Cir. 1997) (per curiam), to ascertain the identity of a John Doe defendant identified by plaintiff as "Orleans Corr. Fac. S-Block Counselor." (Docket No. 6.) The Attorney General's Office has responded to the Order and identified the John Doe defendant as "M. Jamalkowski," who was the plaintiff's Tier III Hearing Assistant and is currently employed at the Orleans Correctional Facility. Accordingly, the Clerk of the Court will be directed to amend the caption of this action to replace defendant "John Doe, Orleans Corr. Fac. S-Block Counselor" with "M. Jamalkowski."

The Order also directed plaintiff, pursuant to Peralta v. Vasquez, 467 F.3d 98, 104 (2d Cir. 2006), to submit a statement wherein he agreed to either waive and forfeit any and all claims regarding that portion of the Tier III Superintendent's Hearing Officer's sanction that recommended the loss of good time or, if he

was not willing to waive said claims, consent to the withdrawal of all procedural due process claims relating to the Tier III Superintendent's Hearing and the sanctions imposed. Plaintiff has filed a statement and has agreed to waive and forfeit any and claims relating to the recommended loss of good time imposed by the Tier III Superintendent's Hearing Officer at issue herein. (Docket No. 7.) Accordingly,

IT IS HEREBY ORDERED that the Clerk of the Court is directed to amend the caption of this action as directed above and to cause the United States Marshals Service to serve the Summons, Complaint, this Order and the Order entered February 6, 2013 (Docket No. 6) on defendants L. Urban and M. Jamalkowski at the Orleans Correctional Facility without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor;¹

FURTHER, that the Clerk of the Court is also directed to forward a copy of this Order by email to Michael Russo, Assistant Attorney General in Charge, Buffalo Regional Office <Michael.Russo@aq.ny.gov>. Pursuant to 42 U.S.C. § 1997e(g)(2), the defendants are directed to answer the complaint; and

¹Pursuant to a Standing Order of Court, filed September 28, 2012, a defendant will have 60 days to file and serve an answer or other responsive pleading, see Fed.R.Civ.P. 12(a)-(b), if the defendant and/or the defendant's agent has returned an Acknowledgment of Receipt of Service by Mail Form within 30 days of receipt of the summons and complaint by mail pursuant to N.Y.C.P.L.R. § 312-a.

FURTHER, that any and all claims set forth in the complaint related to the recommended loss of good time are dismissed with prejudice

SO ORDERED.

S/ Michael A Telesca

MICHAEL A. TELESCA
United States District Judge

Dated: March 28, 2013
Rochester, New York